

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

THEODORE GLADYSZ,

Petitioner,

v.

CIVIL ACTION NO. 1:08CV75
CRIMINAL NO. 1:06CR90-2
(Judge Keeley)

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On February 4, 2008, pro se petitioner Theodore Gladysz ("Gladysz") filed a motion pursuant to 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody. On June 27, 2008, United States Magistrate Judge John S. Kaull entered a Report and Recommendation ("R&R") recommending that this Court deny Gladysz's § 2255 motion and dismiss the case from the Court's active docket. On July 11, 2008, Gladysz filed objections to the R&R.

Upon de novo review of the Magistrate Judge's very thorough analysis, the Court finds that he properly applied the legal standard of United States v. Damon, 191 F.3d 561 (1999), when he determined that Gladysz's guilty plea was knowing and voluntary. He also properly applied the legal standard of Strickland v. Washington, 466 U.S. 668 (1984), when he determined that Gladysz's claims of ineffective assistance of counsel were meritless.

Consequently, the Court **ADOPTS** the Report and Recommendation in its entirety (civil dkt. no. 9; criminal dkt. no. 172), **DENIES**

ORDER ADOPTING REPORT AND RECOMMENDATION

Gladysz's § 2255 petition (civil dkt. no. 1; criminal dkt. no. 145), and **DISMISSES** the case **WITH PREJUDICE**. The Court directs the Clerk's office to **STRIKE** this case from the docket of this Court.

It is so **ORDERED**.

The Clerk is directed to mail a copy of this Order to the pro se petitioner, certified mail, return receipt requested and counsel of record.

Dated: July 22, 2008.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE